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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,604	12/28/2000	Tadakatsu Izumi	F-6803	6756

7590 03/22/2005
Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

HARRISON, JESSICA

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,604

Applicant(s)IZUMI, TADAKATSU **Examiner**

Jessica J. Harrison

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 8, 2004 directing entry of the prior filed amendment of August 5, 2004 has been entered.

Claims 1-3,5-7 are pending. Claims 1, 5, 6, and 7 have been amended.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Figure 5 contains screen captures which are too small and too dark to read. Solid black shading may not be used. Line drawings containing the identical information should be prepared. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Junkin '862 in view of Hawkins et al. '458 (Hawk), Sides '831 and Kagan '045 collectively.

Junkin teaches a network game system having a plurality of elements that allow play of a real time game element trading game (Abstract). The network has communication, interactive terminals, servers, and storage devices (Fig.1). Junkin describes a computer display of a team roster database that shows possession information (2:41-42), multiple computers communicating of a network that teach discrimination between machines (Fig1 and 2:43-45), a menu for selecting and trading team players (8:66-67) that shows transaction information providing, presentation, and selection of elements available for trade. Information updating is taught through real time update of team information (6:25-37). Regarding claim 2, a selected game element is removed when possession is obtained by another game participant/machine. Regarding claim 3, the game is a predetermined competition of baseball or hockey (4:30). Junkin discloses essentially all claimed elements, differing from the presently claimed invention in that Junkin is clearly connected to a computer network and utilizes a centralized server for performance of game functions, while instant independent claims 1, 5, 6 and 7 recite "at least two game machines

each possessed by each of the users (presumably one possessed by each user) and communicative in a direct physical linkage with one another...permitting data exchange directly therebetween”.

Hawkins has been added to the record as he teaches an analogous networked computer game system with playing objects. Hawkins clearly speaks to that which is well known in networking arrangements: the distributive nature of computing. In Figures 1 and 2 and corresponding discussion, Hawkins teaches the equivalence of a server based central control game network arrangement and a direct linked peer to peer arrangement. Thus, play of the game can be implemented on either type of network. Further added to the combination are Sides and Kagan, both of record, which also teach head to head play via the direct linkage of game machines to the exclusion of a central processor. Elimination of a central processor saves both money and computing time, both critical to the commercial success of an online computer game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify Junkin to distribute the required software for play of the game across the peer devices participating in the game and eliminate the need for a central server in view of the collective teachings of Hawkins, Sides and Kagan. Such would save money and computing time and as such attract more players to the system. Furthermore, the selection of particular type of well known networking arrangement, such as server/client or peer/peer, absent criticality, falls under

the purview of routine engineering choice to one of ordinary skill in the networking art and as such can not serve to define patentability.

Response to Arguments

Applicant's arguments filed October 8, 2004 have been fully considered but they are not persuasive.


Applicant states he remains of the position that Junkin fails to disclose the synchronous display between the users to show the situation of the transaction. Allegedly since each user of the interactive devices can transact with the central server at any time in Junkin, the transaction between the users is not conducted at the same time. Respectfully the examiner disagrees for at least two reasons. First, applicant's position fails to persuade in that no language requiring any sort of synchronous display or temporally common transaction is seen anywhere in any of applicants claims. Notwithstanding, presuming arguendo applicant's claims had such a requirement, nothing in Junkin requires that transactions be non-synchronous. Stated differently, if two players in Junkin are online simultaneously and transacting, applicant's potential claim language would be met.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica J. Harrison whose telephone number is 571-272-4449. The examiner can normally be reached on M-F during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jessica J. Harrison
Primary Examiner
Art Unit 3714

jjh